

THE ASSAM MUNICIPAL (SECOND AMENDMENT) BILL, 2021

A BILL

further to amend the Assam Municipal Act, 1956.

Preamble

Whereas it is expedient further to amend the Assam Municipal Act, 1956, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam Act
XV of 1957

It is hereby enacted in the Seventy-second Year of the Republic of India as follows :-

Short title,
extent and
commencement

1. (1) This Act may be called the Assam Municipal (Second Amendment) Act, 2021.
- (2) It shall have the like extent as the principal Act.
- (3) It shall be deemed to have come into force on the 1st day of April, 2021.

Amendment of
section 79-B

2. In the principal Act, in section 79-B ,-
 - (i) in the first para, for the existing words, "Methods of calculation of Carpet Area for commutation of Annual Rental Value of a Holding.- For the purpose of calculation of Annual Rental Value of a Holding, measurement of Carpet Area shall be calculated as under", the words "Methods of calculation of Carpet Area and Land Value for computation of Annual Rental Value of a Holding.- For the purpose of calculation of Annual Rental Value of a Holding, measurement of Carpet Area and Land Value shall be calculated as under" shall be substituted.
 - (ii) after clause (v), the following new clauses shall be inserted, namely:-

"(vi) Land Value shall be determined as per prevailing circle rate;

(vii) State Government shall notify the Method of Calculation of Annual Rental Value from time to time. While arriving at such calculations, the State Government shall refer to the parameters or reform parameters prescribed in various guidelines published by Government of India relating to property tax calculations. The calculation shall also be on the basis of the prevailing Circle Rates published by the State Revenue Authority for a particular Town. In case the Circle Rate is not available for any Urban Local Body, suitable annual escalation on the latest available Circle Rate shall be taken into consideration. State Government shall notify the rates applicable for each Urban Local Body along with maximum ceiling, minimum rate of enhancement per annum, rebates and exemptions, if any."

Das
REVIEWED AT THE
LEGISLATIVE DEPARTMENT
ON 9.8.2021

STATEMENT OF OBJECTS AND REASONS

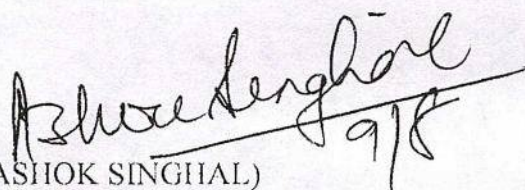
The Bill seeks to amend the Assam Municipal Act, 1956 (Assam Act No. XV of 1957) in respect of section 79-B relating to commutation of Annual Rental Value of holdings under the jurisdictions of Municipal Boards in general areas of Assam.

Property Tax is one of the major sources of revenue for Urban Local Bodies (ULBs). Section 68 of the Assam Municipal Act, 1956 empowers ULBs to levy property taxes on all residential, commercial, industrial and other holdings within their respective municipal jurisdictions. As per the provisions of the Act, the property tax payable is based on the Annual Rental Value of the holding which is the multiple of the Carpet Area and Rental Value per square feet of the Building. This Rental Value fixed by the ULBs for different classes of holdings are to be approved by a committee constituted under the Chairmanship of Deputy Commissioner as per the provision of the Section 79- A (5) of the Assam Municipal Act, 1956. Though value of the building is a component of Rental Value, there is no provision at present in the Assam Municipal Act, 1956 to include the Circle Rate which gives the current value of a property.

Ministry of Finance, Government of India has decided to provide additional borrowing limit of up to 2% of GSDP to the State with additional borrowing limit of 0.25% GSDP to ULBs for the year 2020-21 on undertaking certain reforms to strengthen the ULBs. Accordingly, the property tax, water supply tax, drainage and sewerage tax are to be linked with the circle rate. Though the building value is a component for computing the Annual Rental Value for assessment of property tax, in order to reap the benefit of the reform, the circle rate is also to be incorporated.


Therefore, it is imperative that necessary amendments are to be made in the Assam Municipal Act, 1956 to include the Circle Rate in Rental Value to make the assessment of Property Tax more dynamic and up to date. Accordingly, amendments have been proposed in the Assam Municipal Act, 1956 to empower State Government to notify from time to time the Method of Calculation of Annual Rental Value by taking into consideration the prevailing Circle Rate available for Urban Local Bodies. Thus the State shall be able to address the reform agenda as mandated by the Ministry of Finance, Government of India and also to qualify for the additional borrowing as stated above.

The relevant clauses of the Assam Municipal Act, 1956 i.e. existing provisions are placed below at Annexure-I.


(ASHOK SINGHAL)

MINISTER,

URBAN DEVELOPMENT DEPARTMENT, ASSAM


(S. K. SHARMA)

SECRETARY

ASSAM LEGISLATIVE ASSEMBLY

MEMORANDUM OF DELEGATED LEGISLATION

The Government does not propose to delegate any legislative powers to any agency subordinate to it in this Bill except as per the Rules to be prescribed thereunder.

FINANCIAL MEMORANDUM

There is no financial burden on the State Exchequer on account of the Bill.

Existing provision

Annexure I

COMMENTARY ON

THE ASSAM MUNICIPAL ACT, 1956

[Assam Act No. XV of 1957]

(As Amended upto date)

with

RULES

Along with

Useful Appendices

By :

A.K. Tripathi

Advocate, High Court

FOURTH
EDITION

2013

REGIONAL LAW HOUSE

Guwahati - 781003

(7) The Auditor or the officer subordinate to him, may report as report as regards any item of accounts which appears to him to be contrary to the provisions of this Act, to the Board of the Municipality.

(8) The Board of the Municipality at a meeting shall consider the report of the Auditor alongwith test audit report of the C & AG as early as possible and shall, if necessary, take prompt action thereon, and shall also, if necessary, sucharge the amount of any illegal payment on the person making or authorising it, and charge against any person responsible therefore, the amount of any deficiency or loss incurred due to the negligence or misconduct of such person or any amount which ought to have been, but is not, brought in to account by such person, and shall in every such case, certify the amount due from such person :

Provided that any person aggrieved by an order of payment of certified sums may appeal to the State Government whose decision on such appeal shall be final.

(9) Any person who willfully neglects, or refuses to comply with requisition made by the Auditor or the officer subordinate to him or refuses to comply with any order or direction given by the Board under sub-section (8), shall be liable for any legal action against him as may be considered necessary and appropriate by the Board of the Municipality.

67-F. Audit Report.— (1) As soon as possible after the completion of audit of the accounts of the Municipality, but not later than the thirtieth day of September, every year, the Auditor shall prepared a report of the accounts audited and examined and shall send such report alongwith Test Audit Report of the C & AG to the Chief Municipal Officer.

(2) The auditor shall include in such report.—

- (a) every payment which appears to the auditor to Auditor to be contrary to law;
- (b) the account of any deficiency or loss, which appears to have been caused by the gross negligence or misconduct of any person;
- (c) the account of any sum received which ought to have been, but has not been brought into account by any person, and
- (d) any other material impropriety or irregularity in the account.

67-G. Placing of Audit Report :—(1) The Chief Municipal Officer shall place the audited financial statement, the balance sheet and the report of the Auditor and his comments together with test audit report of the C&AG thereon, before the Board of the Municipality.

(2) The Chief Municipal Officer shall remedy any defect that has been pointed out by the Auditor in his report.

67-H. Submission of Audited Accounts.—(1) The Chief Municipal officer shall, after adoption of the financial statement, balance sheet and the report of the Auditor alongwith test audit report of the C & AG, by the Board of the Municipality at a meeting, forward the same to the State Government together with the report of the action taken thereon by the Municipality and shall also send copies of the same to the Auditor and C&AG.

(2) If there is any deference of opinion between the Auditor and the Municipality or if the Municipality does not remedy the defects or the irregularities mentioned in the Audit report within a reasonable period, the Auditor shall refer the matter to the State Government, whose decision thereon shall be final and binding.”]

CHAPTER V

Municipal Taxation

Imposition of taxes

68. Taxes.—(1) Subject to the provisions of this Act and the rule made hereunder the Board may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, impose within the limits of the municipality the following taxes, fees and tolls, or by any of them :—

- (a) A tax on holdings situated within the municipality assessed on their annual value, payable by the owner ;
- (b) A water-tax payable by the owner or occupier, on the annual value of holdings;
- (c) A lighting-tax, payable by the owner or occupier, on the annual value of holdings;
- (d) A latrine-tax, payable by the owner or occupier, on the annual value of holdings;
- (e) A drainage-tax, payable by the owner, where a system of drainage has been introduced;
- (f) A tax on private markets payable by the owner;
- (g) License fees on carts, carriages and animals used for riding, or burden;
- (gg) licence fees in connection with trade and business;”]
- (h) A fee on the registration of dogs and cattle;
- (i) A fee on boats mooring within the Municipality;

- (j) Tolls on bridges;
- (k) A betterment fee on holdings in any area of which value has increased due to improvement schemes completed at Board's cost;
- (l) Fees for setting up and maintenance of fire brigade;
- (m) Fees for conducting at the cost of the Board, any scheme of social service for the improvement of public health;
- (n) With the sanction of the State Government any other tax, toll, rate or fee; Provided,—
 - (i) That both the taxes mentioned in clauses (a) and (f) shall not be imposed in respect of the same premises;
 - (ii) That when the Board has taken a loan form or guaranteed by the State Government, the Board shall not, without the previous sanction of the State Government, make any alteration in respect of any tax which may have the effect of reducing the income of the Board; and
 - (iii) The State Government may, by order, exemption from the payment of any rate, tax, toll or fee payable under the provisions of this Act, any diplomatic or consular mission of a foreign State and the diplomatic and consular officer of such mission.
- (o) Licence fee on boats.

(2) *Taxes of providing Public Utility Services.*—The Board may, from time to time at a meeting convened as aforesaid, and in accordant with a scale of fees to be approved by the State Government charge a fee in respect of the issue and the renewal of any licence which may be granted by the Board under the Act and in respect of which no fee is leviable under sub-section (1).

(3) Nothing in this Section shall authorise the imposition of any tax or fee which the State Legislature has no power to impose in the State under the Constitution.

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1. Hoarding tax—Demand illegal and liable to be struck down.—

The existence of power of impose a tax, the authority empowered must exercise that power of imposition of hoarding tax in any of its meaning convened for the purpose namely for imposing of hoarding tax. The other question arises later is about following of the procedure etc. In the present case we find that there is no foundation of hoarding tax itself. The Director, in discharge of his functions under Rule 16 of the Municipal Accounts Rules and Budget Estimate had only been discharging his statutory duty, but his powers would be confined only as may be conferred under the provisions of the Act or the Rules and not beyond the provisions. Budgetary approval in the estimates showing any income from any kind of tax not imposed by the authority, much less, in accordance with law would in no way subject to people to exigibility to such taxes. Therefore, in our view, the demand of hoarding tax from the petitioner appellant is illegal and liable to be struck down. [*Selvel Advertising Pvt. Ltd. v. State of Assam*, 2000 (2) GLT 733 : 2000 (3) GLJ 279].

2. Imposing of fee.—While imposing any fee, Municipal Board has to take sanction of the State Government if that fee is not enumerated under certain needs in that Section. If the power is used to impose tax, mentioned of a wrong Section in the order would not affect the validity of the same. [*Assam Textile Merchant's Association Fancy Bazar and another v. The Executive Officer, Gauhati Municipality and another*, 1973 ALR 238].

3. Imposing of tax without framing rules.—No fee can be imposed without framing rules. Imposing of licence fee for exhibiting cinema show without framing any rule by Dibrugarh Municipality, illegal and unjustified. [*Aurora Cinema v. State of Assam*, 1981 (1) GLR 315].

4. Jurisdiction of Civil Court—To entertain suit, challenging tax imposed by the Municipality.—It has been held that Civil Court has jurisdiction to examine cases where the provisions of the Assam Municipal Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principle. [*M/s. Chaganmal Lalchand Firm v. Municipal Board of Karimganj*, AIR 1970 A & N 217].

5. Levy of water tax by the Municipal Board.—Since the statute invested adequate powers in the Boards for levy of water tax and incorporated suitable guideline in the Act. No ostensible reason is shown as to why guidelines are not followed by Municipal Boards in Assam. Such action by Boards may be not unconstitutional or illegal. Not following the guidelines and levying water tax without the basis of distance do narture resentment in rate payers. The Court has not heard of any insurmountable difficulty in not incorporating guidelines indicated in the tax structure. The legislature visualised the contingencies and guided the local authorities yet guidelines are not adopted by the Board. It is time Municipal Boards in the State review their tax structure and incorporate provisions as indicated in the guidelines of the Act. [*Apurba Kumar Barna v. State of Assam*, 1991 (1) GLR (NOC)6].

6. Power of Municipal Board—Conflicting to power under Section 148 of the Act.—The Board has power to levy rent, tolls and fees under Section 148 (2) of the Act and the provision of Section 148 is an independent and separate power conferred by the Legislature on the Municipal Board at a meeting to levy rents, tolls and fees in respect of their municipal market, and there is no conflict between the provisions of Sections 148 and 68 of the Act. If the provision of Section 48 covers entire field of power to levy tax, toll and fees there was no purpose in enacting a separate provision like Section 148 during with the power of Board to levy rent, tolls and fees for use municipal markets. Hence it has been held that the Municipal Board at a meeting had the power and jurisdiction to levy rent, toll and fees. [*Lohit Chandra Saikia v. North Lakhimpur Municipal Board*, 1984 (2) GLR 412].

68-A. Taxes for providing public utility services.—Every Board within whose area public utility services such as electricity, water supply, sanitation are provided shall levy, within four months of the providing of such service or services or within four months of the coming into force of this Section, whichever is later, a tax on the holdings covered by such service or services expressed as a percentage of the tax assessed under Section 68 (1) (a) :

Provided that the tax or taxes levied under this Section shall be so regulated that the net proceeds may not exceed the gross cost of providing the service of services.

SYNOPSIS

1. Director of Municipal Administration status of..... 56
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1. Director of Municipal Administration—Status of.—It has been held that Director of Municipal Administration is not the State Government within the meaning of Section 68(i) of the Act. [*Selvel Advertising Pvt. Ltd. and another v. State of Assam and others*, 2000 (2) GLT 733 (Gau)].

2. Hoarding tax—Imposition by Municipal Board.—Since while taking a decision to impose tax, due notice is necessary to convene meeting and sanction of State Government is also necessary, hence levy of hoarding tax by Silchar Municipal Corporation without convening meeting to take decision for imposing such tax and without sanction of government is illegal. [*Selvel Advertising Pvt. Ltd. and another v. State of Assam and others*, 2000 (2) GLT 733 (Gau)].

69. Taxes on Government holdings.—Notwithstanding any provision to the contrary, all municipal taxes in respect of Government holdings shall be payable by Government themselves to the Municipal Board and not by occupiers.

70. Restriction regarding tax on holdings.—Where the aggregate annual value of all the holdings held by one owner within the

Municipality does not exceed six rupees, the tax mentioned in Section 68 (i) (a) shall not be imposed on any of the holdings of the said owner, provided such owner is not assessed with any profession tax or income-tax.

71. Restriction regarding water-tax and lighting-tax.—(1) The imposition of a water-tax or a lighting-tax shall be subject to the following restrictions, namely :—

- (a) That the tax shall be imposed only on holdings situated within an area for the supply for water to which or for the lighting of which, as the case may be, a scheme has been approved by the State Government :

Provided that where the Board,—

- (i) Distribute water by means of water carts or other like agency or provide a water supply by means of tanks or wells or other reservoirs, or
- (ii) Provide acetylene lamps or such other means of lighting as may be approved by the State Government;

The Board at a meeting may impose in the case (i) a water rate and in the case (ii) a lighting-tax under such conditions and limitations as may be prescribed.

- (b) That the tax shall not be imposed on land used exclusively for the purposes of agriculture, or on any holding consisting only of tanks, or in the case of the water-tax on any holding no part of which within a radius, to be fixed by the State Government, from the nearest stand pipe or other supply of water available to the public;
- (c) That in fixing the rate, at which the tax is to be imposed, regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water or lighting as the case may be, supplied from the works under special contract or otherwise, shall not exceed the amount required for making, extending or maintaining the water-supply or lighting system, as the case may be, together with an amount sufficient to meet the proportionate share of the cost of supervision and collection and the repayment of a payment of interest on any loan incurred in connection with any such supply or system;
- (d) That the tax shall not be leviable until a supply of water has been provided in the area to be supplied or until the lamps in the area to be lighted have been lighted as the case may be, nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such water-supply or lighting;

Provided that nothing in this Section prevent the Board from making any special arrangement consistent with this Act with persons residing beyond the radius fixed by the State Government.

(2) The amount of the tax may vary with the distance of holdings from the nearest stand-pipe or other sources of water-supply, and the amount may be higher in the case of premises to which communication pipes and attachment than in the case of other premises.

(3) The Board, at its discretion, may compound for any period not exceeding one year with the person liable to pay the tax on any railway premises or any premises used as a factory, dockyard, workshop, mazdur depot, school, college, hospital, market, Court-house, jail, reformatory, lunatic asylum, or other similar place, for a certain sum to be paid by such person in lieu of the tax.

(4) Subject as aforesaid in the preceding sub-section additional water-tax under Section 212 shall be imposed only in the areas served by the closed sanitary water-flushed sewerage system.

COMMENT

Water tax—Liability to pay.—Since the State Government has fixed buildings in the Board of Assam within a radius of 1000 feet are made liable to pay water tax and petitioner having his building within 1000 feet and not paid the areas of water tax, held liable to pay water tax levied by Municipal Board. [*Apurba Kumar Barua v. State of Assam*, 1989 (2) GLR 268].

72. Restriction regarding latrine-tax.—(1) The imposition of a tax under Section 68, sub-section (1) (d), shall be subject to the following restrictions, namely:—

- (a) That the tax shall be imposed only on holdings containing dwelling houses, shops places of business, latrines, urinals or cess-pools;
- (b) That the tax shall not be imposed on any jail, reformatory, lunatic asylum, school, college or hospital in which an establishment is maintained for the cleansing of latrines, urinals and cesspools therein without making use of any place or receptacle maintained by the Board for the deposit of sewage or offensive matter;
- (c) That in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for the cleansing of latrines, urinals and cess-pools together with the amount required to meet the proportionate share of the cost of supervision and the collection of the tax; and

- (d) That the tax shall not be leviable in any area until the Board has made provision for the cleansing of latrines, urinals and cess-pools, within such area; nor shall the tax be leviable for any quarter or portion of quarter antecedent to the making of such provision.

(2) (a) The Board at a meeting may compound for any period not exceeding one year with the person liable to pay the tax on any railway premises or any premises used as a factory, dockyard, workshop, mazdur depot, school, college, hospital, market, Court-house or other similar place, for a certain sum to be paid by such person in lieu of the tax or, in the case of such premises or places may in lieu of levying the tax on the annual value of the holding levy it at a certain amount per head, to be fixed by the Board at meeting, on the number of persons living within or habitually resorting to such premises or places.

(b) The Board may by a notice in writing, require the owner or occupier of any such premises or places to furnish within a time to be specified in the notice, a statement of the number of persons residing in or habitually resorting to, such premises or places.

(3) Subject as aforesaid in the preceding sub-sections additional latrine tax under Section 212 shall be imposed only in the areas served by the closed sanitary water-flushed sewerage system.

(4) A rebate of not less than fifty per-centum of the latrine-tax on a holding shall be allowed if the holding is provided with sanitary-type latrines and does not contain any service latrine.

73. Restriction regarding drainage tax.—The imposition of a tax under Section 68, sub-section (1) (e), shall be subject to the following restrictions, namely,—

- (a) That the tax shall be imposed only in case of places situated within an area for which a scheme for construction of a drainage system has been approved by the State Government;
- (b) That in fixing, the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for construction, extending, improving or maintaining the system of drainage together with the amount required to meet the proportionate share of the cost of supervision and the collection of the tax, and
- (c) That the tax shall not be leviable until a system of drainage shall have been made in the area to be so provided; nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such a system of drainage.

74. Special provision regarding tax on private markets.—The tax mentioned in Section 68, sub-section (1) (f), shall be determined by the Board at a meeting with the approval of the State Government, according to the size and importance of such markets.

75. Restriction regarding fire brigade and anti-malarial fees.—In fixing the rate of fees under Section 68, sub-sections (1) (l), and (m) regard shall be had to the principle that the total net proceeds of the fees shall not exceed the amount required for making extending, maintaining and improving the fire brigade services or the anti-malarial and other social services for improvement of public health, as the case may be, or for making contributions to the organisations running such services, together with the amount sufficient to meet the proportionate share of the cost of supervision and collection and the repayment of and payment of interest or any loan incurred in connection with such service.

¹**76. Preparation of list of holdings.**—With a view to determining and imposing tax on the annual value of holdings under the provisions of this Act, every Municipal Board and Town Committee shall prepare a list of holdings within their respective area and update the same continuously.”]

²**77. Returns required for ascertaining annual value.**—(1) The Chairman of the Municipal Board or Town Committee shall, with a view to determining the annual value of holdings in any ward and the person primarily liable for the payment of holding tax, by public notice require the owner or the occupier of such holding to furnish a return in such form, containing such detail as may be prescribed and within such time, not being less than thirty days from the date of publication of such notice.

(2) Every owner or the occupier as aforesaid shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of knowledge and belief of such owner or occupier.

(3) Whoever omits to comply with such requisition shall, in addition to any penalty to which he may be liable, be precluded from objecting to any assessment made by the Municipal Board or Town Committee in respect of such holding under the provisions of this Act.

(4) The Chairman of a Municipal Board or a Town Committee may authorize any persons in writing holding a Diploma in the Civil Engineering, as minimum qualification and having an experience of not less than 3 years as Junior Engineer, with giving a previous notice

1. Subs by Assam Municipal (Amendment) Act, 2011, Section 6, dated 19.5.2012.
2. Subs by Assam Municipal (Amendment) Act, 2011, Section 7, dated 19.5.2012.

to the owner or the occupier of the holding to enter upon and make any inspection or survey and take measurement of such land or building with a view to verify the statement made in the return for such holding or for collecting the particulars referred to in sub-section (1) in respect of such holding :

Provided that no such entry shall be made except between the hours of sunrise and sunset.”]

78. Penalty for default in furnishing return.—Whoever refuses or fails to furnish any such return for the period of time as stipulated in sub-section (1) of Section 77, or knowingly furnishes a false or incorrect return or description, shall be liable to a fine not exceeding two hundred rupees, and to further fine of rupees fifty for each day during which he omits to furnish a true and correct return.”]

¹**79. Determination of Annual Value of holding.**—The Annual Value of holding shall be determined in accordance with the procedure described below in Section 79-A, 79-B, 79-C, 79-D and 79-E respectively. In the said Sections, unless there is any thing repugnant to the subject or context, the following terms shall bear the meaning respectively assigned to them against each:—

- (i) “Annual rental value” means the rent that a holding is capable of fetching over a period of one year ;
- (ii) “Publish” means to publish in one vernacular and in one English daily news paper predominantly in circulation in the notified area of the Municipality ;
- (iii) “Commercial holding” means and include any holding or part of a holding which is used as shop, market, for display and sale of goods either whole sale or retail, office, storage and service facilities incidental to the sale of goods and located in the same holding shall be included under this group ;
- (iv) “Industrial holding” means and include any holding or part of the holding or structure in which products or materials of all kinds and properties and fabricated, assembled or processed like assembly plants, laboratories, power plants, smoke house, refineries, gas plants, mills dairies, factories etc.”]

²**79-A. Classification of holding.**—(1) The holding within a Municipality shall be classified by the respective Board at a meeting of the concerned Municipality on the basis of the situation of the holding, use of the holding and the type of construction.

1. Subs by The Assam Municipal (Amendment) Act, 2011, Section 13, dated 25.5.2011.
2. Ins. by the Assam Municipal (Amendment) Act, 2011 Section 14, dated 25-5-2011.

(2) Regarding situation of the holding, the following matters shall be considered:—

- (i) Holding on the Principal Main Road;
- (ii) Holding on the Main Road;
- (iii) Holding other than clauses (i) and (ii) above.

(3) Regarding Use of the Holding, the following matters shall be considered:—

- (i) Purely residential;
- (ii) Purely Commercial and Industrial, whether self owned or otherwise;
- (iii) Partly residential and partly commercial or industrial;
- (iv) All Holdings other than clauses (i) to (iii) above.

(4) Regarding type of construction, the following matters shall be considered:—

- (i) Pucca building with RCC roof;
- (ii) Pucca building with Asbestos or Galvanized Corrugated Iron sheet as roofing material;
- (iii) All other buildings not covered under clauses (i) and (ii) above.

(5) Subject to the approval of the following committee, a Municipality may from time to time publish the list of Principal Main Roads and the Main Roads and if necessary modify the lists as may be decided by the committee. The committee shall consist of the following for each Municipality:—

- (i) The Deputy-Commissioner, as Chairman, in case of the Municipality is located within the area of a Sardar Sub-Division in a District, in other cases, the Sub-Divisional Officer (Civil) of the area, as Chairman;
- (ii) The Executive Engineer or an Assistant Executive Engineer of the Roads wing of the Public Works Department Assam, within whose jurisdiction, the Municipality is located, as Member;
- (iii) The Executive Engineer or an Assistant Executive Engineer of the Buildings wing of the Public Works Department, Assam, within whose jurisdiction, the Municipality is located, as Member;
- (iv) The Chairman of the concerned Municipality, as Member;
- (v) The officer of the Directorate of Town & Country Planning, functioning in the District/Sub-Division and within in

whose jurisdiction the Municipality is located, as Member;

- (vi) The Revenue Circle Officer (s) of the Area constituting the notified area of a Municipality, as Member;
- (vii) The Vice-Chairman of the concerned Municipality, as Member-Secretary.

The same Committee will also function for the purpose of Section 171 of the Act, subject to the [Rule] framed in this regard.

79-B. Methods of calculation of Carpet Area for commutation of Annual Rental Value of a Holding.—For the purpose of calculation of Annual Rental Value of a Holding, measurement of Carpet Area shall be calculated as under:—

- (i) Rooms-Full measurement of Internal Dimension;
- (ii) Covered Verandah — Full measurement of Internal Dimension;
- (iii) Balcony/Corridor, Kitchen and Store- 50% measurement of Internal Dimension;
- (iv) Garage — 25% measurement of Internal Dimension;
- (v) Area covered by Bathroom, Latrine, Portico and star case shall not form part of the Carpet Area.

79-C. Power to fix the Rental Value and Annual Rental Value.—

(1) The rate of Rental Value per sq. ft. shall be fixed by the Board of the Municipality at a meeting, with prior approval of the Committee mentioned under Section 79-A.

(2) The Annual Rental Value shall be commuted at a multiple of the Carpet Area and the Rental Value fixed under sub-section (1), by the Board of the Municipality at a meeting, with prior approval of the Committee mentioned under Section 79-A.

(3) The Rental Value per sq. ft. of Carpet Area for different classes of holding shall be published from time to time by the Municipality with the approval of the Committee mentioned under Section 79-A.

79-D. Rate of Tax.—Tax shall be assessed on the basis of Annual Rental Value at the following rates:—

- (i) Holding Tax — At [not less than] 2.5% of the Annual Rental Value;
- (ii) Water Tax — Subject to the provisions of Sections 68 and 71 of this Act, at the rate of 2% of Annual Rental Value, other than the users' charge;

1. Subs by Assam Municipal (Amendment) Act, 2012, Section 9, dated 19.5.2012.
2. Subs by Assam Municipal (Amendment) Act, 2012, Section 10, dated 19.5.2012.

- (iii) Latrine Tax—Subject to the provisions of Sections 68 and 72 of this Act, at the rate of 2% of Annual Rental Value.

[79-E. Power of Revision of Tax.]—If any difficulty arises in giving effect to the Principle of fixation of the Annual Rental Value as per the provision of this Act, the state Government shall have the power to review the same, on getting a report from the Executive Officer of the concerned Municipality.”]

[79-F. Determination of taxes.]—The rate of taxes determined in accordance with the provisions of this Act, shall be published by the respective Municipal Board/Town Committee by issuing a public notice within a period of three months from the date of coming into force of the Assam Municipal (Amendment) Act, 2012. This determination shall remain valid for a period of five years. At the expiration of every five years new determination of rate of taxes shall take place and shall be published in the same manner as stipulated in this Section.

Explanation.—For the purposes of this Section the word “publish” shall have the same meaning as assigned to it under Section 79 (ii).

[79-G. Self assessment.]—(1) After coming into force of the Assam Municipal (Amendment) Act, 2012, every owner or occupier of any holding situated within the area of a Municipality or a Town Committee liable to pay tax, shall file a return of self-assessment within six months from the date of publication of rates of taxes or at a date as may be fixed by the Board at a meeting not exceeding another three months from the date of expiry of the original period of six months.

(2) Such owner or occupier shall thereafter file the annual return only in those cases where there is a change in the position as compared to the previous return within three months after the end of the financial years in which the change in position has occurred.

(3) Any owner or occupier liable to pay tax on any holding, pay the same in equated quarterly installments by 30th day of June, 30th day of September, 31st day of December and 31st day of March of the financial year for which tax is to be paid. In the event of tax being paid in one lump sum for the financial year by the 30th day of June of the financial year, rebate of such percentage not exceeding ten percent, as may be determined by the Board at a meeting, from the total tax amount due for the financial year shall be allowed.

(4) If any owner or occupier liable to pay tax under this Chapter, makes a default in this regard, shall pay an extra amount as surcharge on the amount due, not exceeding ten percent of the whole amount, as may be determined by the Board at a meeting.

1. Ins. by The Assam Municipal (Amendment) Act, 2011, Section 14, dated 25.5.2011.

2. *Ibid.*

3. Subs. by The Assam Municipal (Amendment) Act, 2012, Section 11, dated 19.5.2012.

(5) Any owner or occupier liable to pay tax on any holding shall furnish to the Chairman of the Municipal Board or Town Committee a return of self assessment in such form and in such manner as may be adopted by the Board at a meeting. Every such return shall be accompanied by proof of payment of holding tax.

(6) If any owner or occupier liable to pay tax under this Section files a false or incorrect return of self assessments knowing fully well about the false and incorrect information on the basis of which the self assessment has been made and furnish before the Municipal Board or the Town Committee with an intent to evade tax, shall be liable to a fine to the extent of ten percent of the tax so intended to be evaded apart from paying the tax in full on an assessment by the Municipal Board or Town Committee.”]

COMMENT

Determination of gross annual rent.—It has been held that gross annual rent at which a holding may reasonably be expected to let cannot exceed the standard rent for such holding which has been fixed by the legislature under provision of the Rent Control Act. [*M/s. Lalchand Chaganmal Firm v. Municipal Board of Karimganj*, AIR 1970 A & N 214].

80. [***]

[81. Preparation of assessment register.]—The list of holdings, prepared under Section 76, shall be entered in a Register and the taxes payable against each holding shall be noted, as determined under the provisions of this Act, containing the following”]

- (a) number of holdings on the register with the name of the road, if any, in which the holding is situated;
- (b) annual value of the holding (as stated in the valuation list);
- (c) names of owner and occupier;
- (d) amount of tax payable for the financial year;
- (e) amount of taxes payable separately under Sections 68(1), (a), (b), (c), or (d);
- (f) amounts of quarterly installments; and
- (g) if the holding is exempted from assessment, a note to that effect.

82. Power to assess consolidated tax for house and land on which it stands.—(1) If any house belongs to one owner and the land tax on which it stands and any adjacent land which is usually

1. Omitted by Assam Municipal (Amendment) Act, 2012, Section 12, dated 19.5.2012.

2. Subs. by Assam Municipal (Amendment) Act, 2012, Sec 13, dated 19.5.2012.